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9 Construction, Inc.; A.G. Spanos
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10 Land Company, Inc.; A.G. Spanos
Management, Inc., The Spanos Corporation
11

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 National Fair Housing Alliance, Inc., et al.,	)	CASE NO. C07-03255-SBA
)	
15 Plaintiffs,	)	NOTICE OF MOTION AND MOTION
	)	OF A.G. SPANOS CONSTRUCTION,
16 vs.	)	INC.; A.G. SPANOS DEVELOPMENT,
	)	INC.; A.G. SPANOS LAND
17 A.G. Spanos Construction, Inc., et al.	)	COMPANY, INC.; A.G. SPANOS
	)	MANAGEMENT, INC., AND THE
18 Defendants.	)	SPANOS CORPORATION TO
	)	DISMISS PLAINTIFFS' FIRST
19	)	AMENDED COMPLAINT FOR
20	)	FAILURE TO JOIN NECESSARY AND
	)	INDISPENSABLE PARTIES

21 [Fed. R. Civ. P., Rules 12(b)(7) & 19]]

22 Hearing Date: February 26, 2008
23 Time: 1:00 p.m.
Dept.: Courtroom 3

24 Complaint Filed: June 20, 2007

25 **TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

26 **PLEASE TAKE NOTICE** that on February 26, 2008, at 1:00 p.m., or as soon
27 thereafter as this matter may be heard, in Courtroom 3 of the above-entitled court, located at
28 1301 Clay Street, 3rd Floor, Oakland, California, Defendants A.G. Spanos Construction, Inc.,

1 A.G. Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos
2 Management, Inc., and The Spanos Corporation ("Spanos Defendants") will and hereby do
3 move this court, pursuant to rule 12(b)(7) of the Federal Rules of Civil Procedure, for an order
4 dismissing Plaintiffs' National Fair Housing Alliance, Inc., Fair Housing Of Marin, Inc., Fair
5 Housing Napa Valley, Inc., Metro Fair Housing Services, Inc., Fair Housing Continuum, Inc.
6 ("Plaintiffs") First Amended Complaint for failure to join necessary and indispensable parties.

7 The basis of this Motion, as set forth more fully in the accompanying Memorandum of
8 Points and Authorities, is that: (1) the current owners of the affected properties, as well as the
9 tenants living in the affected properties and the lenders whose loans are secured by the affected
10 properties, are necessary and/or indispensable parties to this action, in which plaintiffs seek,
11 among other things, an injunction requiring the rebuilding or retrofitting of the affected
12 properties, and (2) plaintiffs have failed to join the current owners, tenants and secured
13 lenders.

14 This Motion will be based upon this Notice of Motion and Motion, the Memorandum of
15 Points and Authorities in support of this Motion, the Request for Judicial Notice in support of
16 this Motion, and the pleadings, orders, records and documents on file in this case, as well as
17 such oral and documentary evidence as may be properly presented at the time of the hearing on
18 this Motion.

19 Opposition, if any, to the granting of the motion must be served and filed not less than
20 twenty-one (21) days before the hearing date. If the party against whom the motion is directed
21 does not oppose the motion, that party must file with the Court a Statement of Nonopposition
22 within the time for filing and serving any opposition. *See* Local Rule 7-3(a) and 7-3(b).

23 Dated: December 21, 2007

FREEMAN, D'AIUTO, PIERCE, GUREV,
KEELING & WOLF

24
25 By 

THOMAS H. KEELING

26 Attorneys for Defendants A.G. Spanos
27 Construction, Inc.; A.G. Spanos Development,
28 Inc.; A.G. Spanos Land Company, Inc.; A.G.
Spanos Management, Inc., The Spanos
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